

REMARKS/ARGUMENTS

The claims have been divided into two Groups as follows:

Group I: Claims 44-80 and 83-86;

Group II: Claims 81 and 82.

Applicants elect Group I, Claims 44-80 and 83-86, for examination.

In addition, an election of species requirement has been made. Applicants elect as the polycondensation polymer an at least partially aromatic polyamide and, if necessary, the polymer of Claim 47 as a more specific example of such a polymer. As for the polymer having a particular heat deflection temperature, Applicants elect 0 weight % of such polymer as specified in Claim 44. These elections are made with traverse.

This is a PCT case.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803). Moreover, when citing lack of unity of invention in a national stage application, the Examiner has the burden of explaining why each group lacks unity with each other group specifically describing special technical features in each group (MPEP § 1893.03(d)).

The Office apparently asserts¹ that Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reason: the “intermediate product” can be used as a molding composition in and of itself.” The examiner has cited an identical search of “class 524, subclass various” for both Group I and Group II.

¹ It is not clear that the Office appreciated the fact that this is a PCT case.

Annex B of the Administrative Instructions under the PCT at (b) Technical

Relationship states:

“The expression “special technical features” is defined in Rule 13.2 as meaning those technical features that defines a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).”

Applicants respectfully submit that the Office has not provided any indication that the contents of the claims interpreted in light of the description was considered in making the assertion of a lack of unity, nor has any consideration been given to technical features that define a contribution which each of the allegedly restrictable inventions, considered as a whole, make over the prior art. Therefore, the Office has not met its burden in supporting the assertion that Groups I and II lack the same or corresponding special technical features as is necessary in a PCT case.

As noted above, an election requirement has also been made. The Office has similarly not met its burden in requiring election of allegedly distinct species. While Applicants make no statement regarding the patentable distinctness of the species, they note that for restriction to be proper there must be a patentable difference between the species as claimed. MPEP § 808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper. Applicants' election of species, if the requirement is made Final, is for examination purposes only.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

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Applicants respectfully submit that the above-identified application is now in
condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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